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| 10/002,015 | 10/26/2001 | Kevin Lauren Cote | 600.1181 | 5037 |
| 23280 | 7590 | 02/10/2004 | EXAMINER | |
| DAVIDSON, DAVIDSON & KAPPEL, LLC 485 SEVENTH AVENUE, 14TH FLOOR NEW YORK, NY 10018 | | | WINDMULLER, JOHN | |
| | | ART UNIT | PAPER NUMBER | |
| | | 3724 | 7 | |
| DATE MAILED: 02/10/2004 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. 10/002,015 | Applicant(s) COTE ET AL. |
|------------------------------|-------------------------------|--|
| Examiner | Art Unit 3724 |  |
| John Windmuller | | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address.

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 15 January 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-20 is/are pending in the application.
4a) Of the above claim(s) 5,6 and 17-20 is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-4 and 7-16 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) The translation of the foreign language provisional application has been received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). ____ .
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4. 6) Other: ____ .

DETAILED ACTION

1. Applicant's election with traverse of 1-17 in Paper No. 6 is acknowledged. The traversal is on the ground(s) that there is no requirement for a servo motor in claim 1. In view of Applicant's traverse, the restriction requirement is modified as follows:

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-17, drawn to a registration device for a sheet material article handler, classified in class 83, subclass 401.
- II. Claims 18-20, drawn to a method for registering a sheet material article, classified in class 83, subclass 13.

The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the apparatus of claim 1 requires a driver to be configured to move the backstop along an arcuate path, but the method of claim 18 does not require this. The method of claim 18 could be practiced by an apparatus that includes a handle for manually operation of the backstop by a human operator instead of a driver.

The restriction requirement is still deemed proper and is therefore made FINAL.

2. Claims 18-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or

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linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 6.

3. Applicant's further election without traverse of claims 7 and 16 in Paper No. 6 is acknowledged.

4. Claims 5, 6, 17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected species, there being no allowable generic or linking claim. Election was made without traverse in Paper No. 6.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Objections

6. Claim 10 is objected to because of the following informalities: The term "backstops" on line 4 lack sufficient antecedent basis. Examiner suggests making the term singular. Appropriate correction is required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-4, 7, 8, 12-14,16 are rejected under 35 U.S.C. 102(b) as being anticipated by Bryson et al. '947. The device of Bryson et al. '947 discloses the invention as claimed including a movable backstop (Fig. 6, 72; col. 6, line 45 to col. 7, line 28) configured to sequentially engage a leading edge portion of a sheet material article (col. 6, lines 50-51), so as to register the sheet material article relative to the sheet material article handler (col. 6, lines 55-56), a driver (Fig. 6, shaft 56, wheels 75, 76, 84, 85) configured to move the backstop along an arcuate path (col. 6, line 55 to col. 7, line 28, especially col. 6, lines 56-61, simultaneous vertical and horizontal motion) in the direction of movement of the sheet material article from a first position out of the path of movement to a second position in the path of movement (col. 6, lines 59-66).

Regarding claim 2, the driver is configured to move the backstop so as to follow the trailing edge of the sheet material article by nature of the backstop's cyclic movement (col. 6, lines 60-66).

Regarding claim 3, the driver is configured to move the backstop from the second position in the path of the sheet material article to a third position out of the path of the sheet material article (col. 6 lines 47-66).

Regarding claim 4, the driver rotates the backstop in a single angular direction (col. 6, lines 56-66).

Regarding claim 7, the axis (Fig. 6, unlabeled, the pin connecting 83 and 73; col. 7, lines 19-21) is disposed on a movable table (Fig. 6, 73).

Regarding claim 8, the backstop moves into the path of movement of the sheet material article as the table is moving in a direction opposite the direction of movement of the sheet material article (col. 6, lines 56-66).

Regarding claim 12, the backstop includes an elongated member (Fig. 6, unlabeled, the part of the backstop pointed to by the leadline coming from the number 72) perpendicular to the path of movement when the backstop is in the second position.

Regarding claim 13 the driver includes an intermittent drive mechanism (Fig. 6, cam 85).

Regarding claim 14, the intermittent drive mechanism is driven from the main drive (Fig. 6, shaft 56).

Regarding claim 16 the device is a sheet material article trimmer (abstract).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 9, 10, 11, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bryson et al. '947 in view of Uno. The device of Bryson et al. '947 discloses the invention as claimed, except an axis capable of being repositioned relative to the table such that the distance between the backstops and the knife is changed when the backstops are in the second position. However, Uno teaches an axis (Figs. 2-6,

unlabeled, the pivot pin of item 4) capable of being repositioned relative to the table (Figs. 2-6, item 7) such that the distance between the backstops and the knife is changed when the backstops are in the second position (compare position of item 4 in Figs. 4, 5, and 6). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the device of Bryson et al. '947 with an axis capable of being repositioned relative to the table such that the distance between the backstops and the knife is changed when the backstops are in the second position as taught by Uno for trimming articles of different sizes.

Regarding claim 11, the device of Bryson et al. '947 discloses the invention as claimed, except an arcuate path that is circular. However, Uno teaches an arcuate path that is circular (Figs. 2-6, item 4 pivots about a single pin, creating an arcuate path that is circular). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the device of Bryson et al. '947 with an arcuate path that is circular as taught by Uno to provide a more efficient motion for the backstop.

Regarding claim 15, the device of Bryson et al. '947 discloses the invention as claimed, except a driver including a servo motor. However, Uno teaches a driver including a servo motor (col. 6, lines 38-39). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the device of Bryson et al. '947 with a driver including a servo motor as taught by Uno to provide better control over the motion of the backstop.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kelly, Sarring, Bryson et al. '344, Kast, Hartsoe, Lowell, Loverch et al.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Windmuller whose telephone number is 703 305-4988. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703 308-1082. The fax phone number for the organization where this application or proceeding is assigned is 703 872-9302.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 305-1148.

JW



Allan N. Shoap
Supervisory Patent Examiner
Group 3700